

REMARKS

In the present action, the Examiner has withdrawn newly-presented claims 7-13 and 15 as being directed to an invention that is distinct from the invention as originally claimed. The Examiner further asserts that Applicant's reply filed on March 31, 2003 is not fully responsive because all pending claims are directed to an invention independent and distinct from the previously examined invention. Reconsideration of this application is respectfully requested in view of the amendments and/or remarks provided herein.

Withdrawal of Claims 7-13 and 15

1. The Examiner withdrew newly-presented claims 7-13 and 15 as being directed to an invention that is distinct from the invention as originally claimed. The Examiner asserts that the originally presented invention was directed to a combination of a bathing vessel/tub and an armrest, but the new claims are directed to a subcombination of an armrest. Applicant disagrees.

The inventions of claims 1, 7, and 15 are all directed to a bathing device. None of the claimed inventions are directed to an armrest. While the claims were drafted to include only the minimum elements of the bathing device that Applicant believes are necessary to distinguish the present invention over the cited references, Applicant submits that all the originally and newly presented claims are directed to a single invention—i.e., a bathing device. While original claim 1 did expressly include a water tight vessel as an element of the claim, Applicant believes that the inclusion of such element is not necessary to distinguish the claims of the instant application from the disclosures and suggestions of the cited references. Nevertheless, in order to move the prosecution of the instant application forward, Applicant has herein amended independent claims 1, 7 and 15 to include a "water tight vessel" as an element of the claimed bathing device. With such amendments, Applicant respectfully requests that the Examiner reverse his decision to withdraw claims 7-13 and 15 from consideration and reinstate claims 7-13 and 15 for examination in the instant application.

The invention recited in claim 7 is drawn to a bathing device that includes a water tight vessel, at least one armrest defining at least one orifice and at least one jet positioned in the orifice(s) of the armrest(s). Thus, the invention recited in claim 7 is similar in scope to the invention recited in claim 5, except that air may be alternatively directed through the jet instead of just water. The invention recited in claim 15 is also drawn to a bathing device that includes a water tight vessel and at least one armrest. However, unlike claims 5 and 7, claim 15 recites both an air jet and a water jet positioned within the armrest orifices. While none of the original claims recited an air jet, the Examiner clearly examined such technological area in order to examine original claim 6, which was drawn to a bathing device that included an air bubbler disposed in an orifice of the armrest. Moreover, claim 1 is a generic claim that broadly covers the subject matter recited in both claims 7 and 15. Thus, with the amendments to claims 1, 7 and 15, only one invention has been presented for examination and such invention is recited in claims that include a combination of a water tight vessel and an armrest having one or more orifices.

Therefore, in view of Applicant's above remarks and the amendments to claims 7 and 15 set forth herein, Applicant requests that the Examiner reconsider his withdrawal of claims 7-13 and 15, and, more particularly, reinstate claims 7-13 and 15 for examination.


No Pending Claims are Directed to the Previously Examined Invention

2. The Examiner asserts that Applicant's reply filed on March 31, 2003 is not fully responsive because all pending claims are directed to an invention independent and distinct from the previously examined invention. In particular, the Examiner asserts that amended claim 1 recites a different invention than that which was originally presented for examination. As noted above in Section 1, Applicant disagrees and submits that claim 1 is, and has always been, directed to a bathing device. However, as also noted above, while Applicant believes that the inclusion of a "water tight vessel" as an element of the claim is not necessary to distinguish independent claim 1 from the disclosures and suggestions of the cited references, Applicant has nevertheless amended claim 1 to include a "water tight vessel" as an element of the claimed

bathing device in order to move prosecution of the instant application forward. With such amendment to claim 1, Applicant respectfully submits that claim 1 recites a combination of a vessel and an armrest as was presented in original claim 1. Accordingly, Applicant requests that this amendment and response in combination with the amendment and response filed March 31, 2003 be deemed to be fully responsive to the prior Office Action.

3. The Examiner is invited to contact the undersigned by telephone, facsimile or email if the Examiner believes that such a communication would advance the prosecution of the instant application. Please charge any fees associated herewith, including extension of time fees (if applicable), to the undersigned's Deposit Account No. 50-1111.

Respectfully submitted,

By: 
Daniel C. Crilly
Attorney for Applicant
Reg. No.: 38,417
BRINKLEY, MCNERNEY,
MORGAN, SOLOMON & TATUM,
LLP
200 East Las Olas Blvd., Suite 1900
Ft. Lauderdale, FL 33301
Telephone: (954) 522-2200
Fax: (954) 522-9123
Email: dcc@brinkleymcnerney.com



**VERSION OF AMENDED CLAIMS WITH MARKINGS
TO SHOW CHANGES MADE**

RECEIVED

MAY 29 2003

TECHNOLOGY CENTER R3700

1. (Twice Amended) A device for bathing comprising:

a water tight vessel that is sufficiently large to hold a bather;
at least one armrest connected to the vessel and positioned at a height to support at least one arm of the [a] bather; and
at least one orifice defined by said at least one armrest, the at least one orifice being sized and shaped to direct a flow of at least one of pressurized fluid and pressurized air onto at least one of a hand, a finger and a forearm of the bather.

7. (Once Amended) A device for bathing comprising:

a water tight vessel that is sufficiently large to hold a bather;
at least one armrest connected to the vessel and positioned at a height to support at least one arm of the [a] bather, the at least one armrest defining at least one orifice; and
at least one jet positioned within the at least one orifice to direct a flow of water or air onto at least one of a hand, a finger and a forearm of the bather.

15. (Once Amended) A device for bathing comprising:

a water tight vessel that is sufficiently large to hold a bather;
at least one armrest connected to the vessel and positioned at a height to support at least one arm of the [a] bather, the at least one armrest defining a plurality of orifices;
at least one air jet positioned within at least one of the plurality of orifices to direct a flow of air onto at least one of a hand, a finger and a forearm of the bather; and
at least one fluid jet positioned within at least one of the plurality of orifices to direct a flow of fluid within the device.